



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

February 22, 2016

Bowie Resources, LLC
c/o Corporation Service Company
1560 Broadway, Suite 2090
Denver, CO 80202

Certified Mail Number: 7014 2870 0000 7699 5894

RE: Service of Notice of Violation/Cease and Desist Order, Number: IO-160218-1

Dear Registered Agent:

Bowie Resources, LLC is hereby served with the enclosed Notice of Violation / Cease and Desist Order (the "NOV/CDO"). The NOV/CDO is issued by the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") pursuant to the authority given to the Division by §§25-8-602 and 25-8-605, C.R.S., of the *Colorado Water Quality Control Act*, (the "Act"). The Division bases the NOV/CDO upon findings that Bowie Resources, LLC has violated the Act and/or permit or control regulations promulgated pursuant to the Act, as described in the enclosed NOV/CDO.

Pursuant to §25-8-603, C.R.S., Bowie Resources, LLC is required, within thirty (30) calendar days of receipt of this NOV/CDO, to submit to the Division an answer admitting or denying each paragraph of the Findings of Fact and responding to the Notice of Violation.

This action could result in the imposition of civil penalties. The Division is authorized pursuant to §25-8-608, C.R.S., to impose a penalty of \$10,000 per day for each day during which such violation occurs.

Please be advised that the Division is continuing its investigation into this matter and the Division may identify supplementary violations that warrant amendments to this NOV/CDO or the issuance of additional enforcement actions.



Should you or representatives of Bowie Resources, LLC desire to discuss this matter informally with the Division, or if you have any questions regarding the NOV/CDO, please do not hesitate to contact Eric Mink by phone at (303) 692-2312 or by electronic mail at eric.mink@state.co.us.

Sincerely,



Eric T. Mink, Enforcement Specialist
Clean Water Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Enforcement File

ec: Michael Boeglin, EPA Region VIII
Ken Nordstrom, Delta County Health and Human Services Department
Aimee Konowal, Watershed Section, CDPHE
Michael Beck, Grants and Loans Unit, CDPHE
Amy Zimmerman, Engineering Section, CDPHE
Heather Drissel, Field Services Section, CDPHE
Erin Scott, Permits Section, CDPHE
Mike Harris, Enforcement Unit, CDPHE
Tania Watson, Compliance Assurance, CDPHE



COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / CEASE AND DESIST ORDER

NUMBER: IO-160218-1

IN THE MATTER OF: BOWIE RESOURCES, LLC
 CDPS PERMIT NO. CO0044776
 DELTA COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602 and 25-8-605 C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation / Cease and Desist Order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all time relevant to the violations cited herein Bowie Resources, LLC ("Bowie Resources") was a Delaware limited liability company in good standing and registered to conduct business in the state of Colorado.
2. Bowie Resources is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
3. Bowie Resources owns and/or operates the Bowie No.2 Mine facility, located at 38.921448, - 107.540215, near the Town of Paonia, in Delta County, Colorado, (the "Facility").
4. The Facility is an underground bituminous coal mine with a maximum production rate of 6 billion tons per year. Coal is produced from the underground mine and is conveyed to the surface, and placed in stockpiles before being run through a crushing and screening facility. Crushed coal is conveyed to other stockpiles, where it is either cycled through a coal preparation plant or conveyed to a unit train loadout. Discharge from the mine is intermittent. Water is pumped from the mine as needed to keep the underground sumps at desired levels. Flow rate varies up to 1,000 gallons per minute.
5. The Facility is the subject of the Colorado Discharge Permit System, Permit No. CO0044776 (the "Permit"). The current Permit became effective on September 1, 2004. The Permit was amended with Amendment #1 and reissued effective May 1, 2005. Amendment #2 was reissued effective August 1, 2007. Amendment #3 was reissued effective January 1, 2009. The permit expired on August 31, 2009, and has subsequently been administratively continued, pending permit reissuance.



6. The Permit authorizes Bowie Resources to discharge surface runoff and/or mine water from the Facility through Outfalls 001, 002, 003, 005, 007, 008, and 009. Outfall 004 is authorized to discharge treated domestic wastewater, and Outfalls 006 and 010 are authorized to discharge mine water. The outfalls discharge into the North Fork of the Gunnison River and the Deer Trail Ditch to the North Fork of the Gunnison River. Outfalls MN06 and MN10 represent alternative effluent limits, used when the discharge volumes of outfalls 006 and 010 are increased due to any 24-hour period precipitation greater than the 10-year, 24-hour event. Outfall 010X represents the quarterly Whole Effluent Toxicity ("WET") tests taken at outfall 010.
7. Pursuant to 5 CCR 1002-61, §61.8, Bowie Resources must comply with all the terms and conditions of the Permit, and violations of such terms and conditions as specified in the Permit may make Bowie Resources subject to civil and criminal liability pursuant to §§25-8-601 through 25-8-612, C.R.S.

Failure to Comply with Permit Effluent Limitations

8. Pursuant to Part I.A.1. of the Permit, effluent limitations designated in the Permit for Outfalls 001, 002, 003, 004, 005, 006, and 007 shall apply, and Bowie Resource's effluent shall not exceed, among others not subject to this action, the effluent discharge limitations specified in the table below:

| Bowie Resources DISCHARGE LIMITATIONS FOR OUTFALL 001A, 002A, 003A, 005A, 006A, 007A | | | | | |
|---|-------------|------------|-----------|-----------|------|
| Parameter | Limitation | | | Sampling | |
| | 30-day Avg. | 7-day Avg. | Daily Max | Frequency | Type |
| Total Suspended Solids ("TSS"), mg/l | 35 | | 70 | Monthly | Grab |
| Total Iron, ug/l | 3,000 | | 6,000 | Monthly | Grab |

| Bowie Resources DISCHARGE LIMITATIONS FOR OUTFALL 004A | | | | | |
|---|-------------|------------|-----------|------------|-----------|
| Parameter | Limitation | | | Sampling | |
| | 30-day Avg. | 7-day Avg. | Daily Max | Frequency | Type |
| TSS, mg/l | 30 | 45 | | Monthly | Composite |
| pH, s.u. (min-max) | | | 6.5-9 | Weekly | In-situ |
| BOD, 5-day, mg/l | 30 | 45 | | Monthly | Composite |
| Flow, MGD | 0.0115 | | Report | Continuous | Recorder |
| Fecal Coliform Bacteria Number/100 ml | 6,000 | 12,000 | | Monthly | Grab |
| Total Residual Chlorine, mg/l | | | 0.5 | Weekly | Grab |

9. Pursuant to Part I.B.1. of the Permit, Bowie Resources is required to monitor defined effluent parameters at specified frequencies in order to provide an indication of compliance or non-compliance with the effluent limitations of the Permit.
10. Pursuant to Part I.E.1. of the Permit, Bowie Resources is required to summarize and report the analytical results of its effluent monitoring to the Division via monthly Discharge Monitoring Report

forms ("DMRs"). Each DMR is to include a certification by Bowie Resources that the information provided therein is true, accurate and complete to the knowledge and belief of Bowie Resources.

11. Bowie Resources' DMRs submitted for the monitoring periods between September 2010 and April 2015 include, among other information and data, the following effluent concentration summary data which exceeded the limitations listed in Part I.A.1. of the Permit:

| Bowie Resources EFFLUENT SELF-MONITORING DATA | | | |
|--|--------------------------------------|-----------------------------|------------------------------|
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 001A | | |
| TSS, mg/l | 30-DAY AVG. LIMIT= 35 mg/l | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM= 70 mg/l |
| February 1-February 28, 2011 | 75 | -- | 75 |
| April 1-April 30, 2012 | 47 | -- | -- |
| July 1-July 31, 2013 | 83 | -- | 83 |
| September 1-September 30, 2013 | 86 | -- | 86 |
| August 1-August 31, 2014 | 44 | -- | -- |
| Total Iron, ug/l | 30-DAY AVG. LIMIT=3,000 | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM=6,000 |
| July 1-July 31, 2013 | 3,360 | -- | -- |
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 002A | | |
| TSS, mg/l | 30-DAY AVG. LIMIT= 35 mg/l | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM= 70 mg/l |
| January 1-January 31, 2012 | 68 | -- | -- |
| April 1-April 30, 2012 | 41 | -- | -- |
| July 1-July 31, 2013 | 556 | -- | 556 |
| August 1-August 31, 2013 | 39 | -- | -- |
| February 1-February 28, 2014 | 52 | -- | -- |
| October 1-October 31, 2014 | 37 | -- | -- |
| Total Iron, ug/l | 30-DAY AVG. LIMIT=3,000 | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM=6,000 |
| July 1-July 31, 2013 | 9,860 | -- | 9,860 |
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 003A | | |
| TSS, mg/l | 30-DAY AVG. LIMIT= 35 mg/l | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM= 70 mg/l |
| July 1-July 31, 2013 | 360 | -- | 360 |
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 004A | | |
| TSS, mg/l | 30-DAY AVG. LIMIT= 30 mg/l | 7-DAY AVG. LIMIT=45 mg/l | DAILY MAXIMUM= NA |
| July 1-July 31, 2011 | 75 | 75 | -- |

| Bowie Resources EFFLUENT SELF-MONITORING DATA | | | |
|--|---|--------------------------------|-------------------------------|
| May 1-May 31, 2013 | 39 | -- | -- |
| September 1-September 30, 2014 | 46 | 75 | -- |
| April 1-April 30, 2015 | 34 | -- | -- |
| May 1-May 31, 2015 | 34 | -- | -- |
| pH, s.u. (min - max) | 30-DAY AVG. LIMIT= NA | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM=6.5-9 |
| September 1-September 30, 2010 | -- | -- | 4.95 |
| Flow, MGD | 30-DAY AVG. LIMIT=0.0115 | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM= Report |
| July 1-July 31, 2011 | 0.4183 | -- | -- |
| BOD, 5-day, mg/l | 30-DAY AVG. LIMIT=30 | 7-DAY AVG. LIMIT=45 | DAILY MAXIMUM= Report |
| October 1-October 31, 2011 | -- | 110 | -- |
| Total Residual Chlorine, mg/l | 30-DAY AVG. LIMIT=NA | 7-DAY AVG. LIMIT=NA | DAILY MAXIMUM=0.5 |
| January 1-January 31, 2014 | -- | -- | 0.54 |
| February 1-February 28, 2015 | -- | -- | 1 |
| Fecal Coliform Bacteria, Number/100 µg/l | 30-DAY AVG. LIMIT=6,000 | 7-DAY AVG. LIMIT=12,000 | DAILY MAXIMUM=NA |
| January 1-January 31, 2012 | 6,130 | -- | -- |
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 005A | | |
| TSS, mg/l | 30-DAY AVG. LIMIT= 35 mg/l | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM= 70 mg/l |
| December 1-December 31, 2011 | 64 | -- | -- |
| July 1-July 31, 2013 | 45 | -- | -- |
| August 1-August 31, 2013 | 52 | -- | -- |
| September 1-September 30, 2013 | 40 | -- | -- |
| DISCHARGE MONITORING REPORTING PERIOD | SAMPLE MEASUREMENTS FOR OUTFALL 007A | | |
| TSS, mg/l | 30-DAY AVG. LIMIT= 35 mg/l | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM= 70 mg/l |
| July 1-July 31, 2013 | 124 | -- | 124 |
| Total Iron, ug/l | 30-DAY AVG. LIMIT=3,000 | 7-DAY AVG. LIMIT= NA | DAILY MAXIMUM=6,000 |
| July 1-July 31, 2013 | 5,070 | -- | -- |

12. Pursuant to Part I.A.3. of the Permit, all outfalls except 004, 006, and 010 are eligible for relief from TSS and total iron effluent limitations if the majority of the loading from any discharge

consists of stormwater runoff. The permittee has the burden of proof when seeking relief from TSS and/or total iron limitations. The permittee will need to show that exceedance of the applicable limitations was caused by precipitation and not mine water through a comparison of the loading from each source. To waive TSS and total iron limitations, it is necessary to prove that discharge occurred within 48 hours after measurable precipitation or pond inflow has stopped. The permittee shall submit adequate proof, such as weather station data, for an exemption to be claimed. The proof shall be submitted as an attachment to the DMR for that reporting period.

13. On August 27, 2013, Bowie Resources submitted a letter to the Division stating that a rainfall event occurred on June 27, 2013; however, the letter did not contain weather data or any other precipitation data and, therefore, did not meet the burden of proof requirements defined by Part 1.A.3. of the Permit.
14. Bowie Resources' failure to comply with the Permit effluent limitations constitutes violations of Part I.A.1. of the Permit.

Failure to Properly Monitor and Report

15. Pursuant to Part I.B.1. of the Permit, in order to obtain an indication of probable compliance or noncompliance with the specified effluent limitations, Bowie Resources shall monitor all effluent parameters at specified frequencies. Such monitoring is required for the life of the Permit unless otherwise specified. The results of such monitoring shall be reported on the DMR form.
16. Pursuant to Part I.E.1. of the Permit, Bowie Resources is required to report all monitoring results using Division approved DMRs. Bowie Resources is required to ensure the DMRs are mailed to the Division so that they are received no later than the 28th day of the month following the monitoring period (monthly). If not discharge occurs during the monitoring period, "No Discharge" shall be reported. Additionally, the Permit specifies that the DMR forms shall be filled out accurately and completely in accordance with the requirements of the Permit and the instructions on the forms.
17. Division records establish that Bowie Resources failed to submit DMRs to the Division for Outfalls 006A and 010A for the following reporting periods:

| Bowie Resources DELINQUENT DMRs | |
|--|--|
| REPORTING PERIOD | OUTFALL/ MONITORING LOCATION NUMBER |
| October 1 - December 31, 2010 | 010X, WET for 010A |
| May 1-31, 2014 | MN06, MN10 |

18. Division records establish that Bowie Resources failed to submit analytical data to the Division for the reporting periods and associated effluent parameters and outfalls listed below:

| Bowie Resources DEFICIENT DMRS | | |
|--|---|----------------|
| DISCHARGE MONITORING REPORTING PERIOD | DEFICIENT PARAMETERS | OUTFALL |
| September 1 - 30, 2010 | Total Dissolved Solids, quarterly avg and quarterly max | 002A |
| September 1 - 30, 2010 | Total Dissolved Solids, quarterly avg and quarterly max | 004A |

| Bowie Resources DEFICIENT DMRS | | |
|--|---|---------|
| DISCHARGE MONITORING REPORTING PERIOD | DEFICIENT PARAMETERS | OUTFALL |
| December 1-31, 2010 | Total Dissolved Solids, quarterly avg and quarterly max | 001A |
| December 1-31, 2010 | Total Dissolved Solids, quarterly avg and quarterly max | 002A |
| December 1-31, 2010 | Total Dissolved Solids, quarterly avg and quarterly max | 004A |
| December 1-31, 2010 | Total Dissolved Solids, quarterly avg and quarterly max | 005A |
| January 1-31, 2011 | Total Residual Chlorine, inst max | 004A |
| March 1-31, 2011 | Total Dissolved Solids, quarterly avg and quarterly max | 001A |
| March 1-31, 2011 | Total Dissolved Solids, quarterly avg and quarterly max | 002A |
| March 1-31, 2011 | Total Dissolved Solids, quarterly avg and quarterly max | 004A |
| June 1-30, 2013 | pH, maximum | 004A |
| September 1-30, 2013 | Flow, 30 day avg and daily max | 005A |
| October 1-31, 2013 | Flow, 30 day avg and daily max | 005A |
| July 1-31, 2014 | pH, min and max, Total Residual Chlorine, inst max | 004A |
| September 1-30, 2014 | Flow, 30 day avg and daily max | 001A |
| February 1-28, 2015 | Fecal Coliform, 30 day avg and 7 day max | 004A |
| March 1-31, 2015 | Flow, 30 day avg and daily max, Total Dissolved Solids, quarterly avg and quarterly max | 005A |

19. Division records establish that Bowie Resources failed to submit DMRs to the Division by the 28th day of the month following the end of the reporting periods identified in the table below:

| Bowie Resources LATE DMRS | | | |
|------------------------------|--|--------------|------------------|
| REPORTING PERIOD | OUTFALL/ MONITORING LOCATION NUMBER | DMR DUE DATE | DMR RECEIPT DATE |
| January 1-March 31, 2011 | 010X | 4/28/2011 | 6/30/2011 |
| July 1-31, 2011 | 004A | 8/28/2011 | 11/21/2011 |
| September 1-30, 2011 | MN06, MN10 | 10/28/2011 | 12/30/2011 |
| November 1-30, 2012 | MN06, MN10 | 12/28/2012 | 1/3/2012 |
| August 1-31, 2013 | All | 9/28/2013 | 10/1/2013 |
| June 1-30, 2014 | All | 7/28/2014 | 7/29/2014 |
| July 1-31, 2014 | All | 8/28/2014 | 9/2/2014 |

| Bowie Resources LATE DMRs | | | |
|------------------------------|--|--------------|------------------|
| REPORTING PERIOD | OUTFALL/ MONITORING LOCATION NUMBER | DMR DUE DATE | DMR RECEIPT DATE |
| August 1-31, 2014 | All | 9/28/2014 | 10/1/2014 |
| September 1-30, 2014 | All | 10/28/2014 | 10/1/2014 |
| October 1-31, 2014 | All | 11/28/2014 | 12/9/2014 |
| November 1-30, 2014 | All | 12/28/2014 | 1/6/2015 |
| December 1-31, 2014 | All | 1/28/2015 | 1/30/2015 |
| January 1-31, 2015 | All | 2/28/2015 | 3/2/2015 |
| February 1-28, 2015 | All | 3/28/2015 | 4/1/2015 |
| March 1-31, 2015 | All | 4/28/2015 | 4/30/2015 |
| April 1-30, 2015 | All | 5/28/2015 | 6/1/2015 |
| May 1-31, 2015 | All | 6/28/2015 | 7/7/2015 |
| June 1-30, 2015 | All | 7/28/2015 | 8/4/2015 |
| July 1-31, 2015 | All | 8/28/2015 | 9/1/2015 |
| August 1-31, 2015 | All | 9/28/2015 | 9/30/2015 |
| October 1-31, 2015 | All | 11/28/2015 | 12/1/2015 |
| November 1-30, 2015 | All | 12/28/2015 | 12/29/2015 |

20. Bowie Resources' failure to monitor all effluent parameters and/or submit DMRs to the Division so that they are received by no later than the 28th day of the month following the monitoring period, as identified above in paragraphs 17-19, constitutes violations of Parts I.B.1. and/or I.E.1. of the Permit.

Failure to Provide Information

21. Pursuant to Part II.B.2. of the Permit, Bowie Resources shall furnish to the Division, within a reasonable time, any information the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit.
22. The Division mailed the following seventeen (17) compliance advisories to Bowie Resources, each requesting information:

| Bowie Resources Issued Compliance Advisories | | |
|---|----------------------------------|---|
| REPORTING PERIOD | DATE COMPLIANCE ADVISORY SENT | REASON FOR COMPLIANCE ADVISORY |
| June 1-30, 2013 | November 11, 2013 | Failure to Submit Complete DMR |
| July 1-July 31, 2013 | January 9, 2014 | Reported Effluent Violation, Notice of Significant Non-Compliance |
| October 1-31, 2013 | January 30, 2014 | Failure to Submit Complete DMR |
| August 1-September 30, 2013 | March 11, 2014 | Reported Effluent Violation, Notice of Significant Non-Compliance |
| May 1-31, 2014 | August 15, 2014 | Failure to Submit DMR |
| June 1-30, 2014 | September 10, 2014 | Failure to Submit DMR |
| August 1-31, 2014 | October 21, 2014 | Reported Effluent Violation |

| Bowie Resources Issued Compliance Advisories | | |
|---|----------------------------------|--|
| REPORTING PERIOD | DATE COMPLIANCE ADVISORY SENT | REASON FOR COMPLIANCE ADVISORY |
| September 1-30, 2014 | November 26, 2014 | Reported Effluent Violation |
| September 1-30, 2014 | December 11, 2014 | Incomplete DMR |
| October 1-31, 2014 | December 24, 2014 | Reported Effluent Violation, Notice of Significant Non-Compliance |
| February 1-28, 2015 | April 23, 2015 | Reported Effluent Violation |
| February 1-28, 2015 | May 14, 2015 | Incomplete DMR |
| March 1-31, 2015 | June 11, 2015 | Incomplete DMR |
| April 1-30, 2015 | June 25, 2015 | Reported Effluent Violation |
| May 1-31, 2015 | July 31, 2015 | Reported Effluent Violation, Notice of Significant Non-Compliance |

23. Division records establish that Bowie Resources did not provide the information requested by the Division and/or failed to provide adequate information to make a compliance determination.
24. Bowie Resources' failure to submit the requested information constitutes violations of Part II.B.2. of the Permit.

NOTICE OF VIOLATION

25. Based on the foregoing Findings of Fact and Conclusions of Law, you are hereby notified that the Division has determined that Bowie Resources has violated the following sections of the Permit.

Part I.A.1. of the Permit which states in part: "In accordance with the Water Quality Control Commission Regulations for Effluent Limitations, Section 62.4, and the Colorado Discharge Permit System Regulations, Section 61.8(2), the permitted discharge shall not contain effluent parameter concentrations, which exceed the following limitations..."

Part I.B.1. of the Permit which states in part: "In order to obtain an indication of the probable compliance or noncompliance with the effluent limitations specified in Part I.A.1., the permittee shall monitor all effluent parameters at the following frequencies. The results of such monitoring shall be reported on the Discharge Monitoring Report form..."

Part I.E.1. of the Permit which states in part: "Reporting of the data gathered in compliance with Part I.B.1. shall be on a monthly basis. Monitoring results shall be summarized for each calendar month and reported on Division approved discharge monitoring report (DMR) forms (EPA forms 3320-1). One form shall be mailed to the Water Quality Control Division... so that the DMR is received no later than the 28th day of the following month... If no discharge occurs during the reporting period, "No Discharge" shall be reported. The DMR forms shall be filled out accurately and completely in accordance with the requirements of this permit and the instructions on the forms..."

Part II.B.2. of the Permit which states in part: "The permittee shall furnish to the Division, within a reasonable time, any information the Division may request to determine whether causes exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit..."

REQUIRED CORRECTIVE ACTION

Based upon the foregoing factual and legal determinations and pursuant to §25-8-602 and §25-8-605, C.R.S., Bowie Resources is hereby ordered to:

26. Cease and desist from all violations of the Colorado Water Quality Control Act, §§25-8-101 through 25-8-803, C.R.S., its implementing regulations promulgated thereto and the Permit.

Furthermore, the Division hereby orders Bowie Resources to comply with the following specific terms and conditions of this Order:

27. Bowie Resources shall immediately initiate measures to ensure complete DMRs are submitted to the Division pursuant to the terms and conditions of the Permit. Within thirty (30) calendar days of receipt of this Order, Bowie Resources shall submit a written plan and certification to the Division outlining Bowie Resources' actions to ensure that DMRs are submitted to the Division accurately and completely by no later than the 28th day of the month following the end of a reporting period.
33. Within thirty (30) calendar days of receipt of this Order, Bowie Resources shall provide a summary of all effluent monitoring from September 2010 through the date of this Order. The data shall be summarized in Excel format and shall be clear and understandable. Laboratory data reports, all field measurement reports, and all calibration and maintenance records shall be submitted as attachments to the data summary.
34. Within thirty (30) calendar days of receipt of this Order, for all monitoring periods listed above in paragraph 17, Bowie Resources shall submit revised DMRs, as appropriate, that comply with the reporting requirements outlined in Part I.E.3. of the Permit.
35. Within thirty (30) calendar days of receipt of this Order, Bowie Resources shall retain the services of an individual or entity experienced in coal mine related wastewater treatment and management to perform an evaluation of the Facility and recommend measures to ensure that the Facility reliably and consistently complies with all terms and conditions of the Permit, specifically including the numeric effluent limitations, alternate limitation burden of proof requirements, practiced based limitations, and monitoring requirements of the Permit. The evaluation shall include, but not be limited to:
 - a. An evaluation of the personnel requirements and qualifications for the operation and management of the Facility, including an evaluation of each individual's role, duties, and responsibilities in ensuring the proper operation and maintenance of the Facility and Permit compliance;
 - b. An evaluation of the contributing pollutant sources and pollutant concentrations for all pollutants that could influence the treatment process, and an evaluation of whether the Facility's treatment system as a whole is adequate to properly treat all contributing pollutant sources and pollutant concentrations to a level that consistently complies with the effluent limitations outlined in Part I.A.1. of the Permit. This evaluation shall include identification and cost comparison of the techniques or technologies that may be utilized at the Facility to comply with the effluent limitations of the Permit, and;

- c. An evaluation of whether the Facility's control measures as a whole are adequate to comply with the proper operation and maintenance requirements outlined in Part II.A.9. of the Permit. This evaluation shall include identification of the measures, techniques or technologies that may be utilized at the Facility to consistently comply with the effluent limitations and maintenance requirements of the Permit.
36. Within forty five (45) calendar days of receipt of this Order, Bowie Resources shall provide documentation to the Division that it has retained the services of the qualified individual or entity identified in paragraph 35. This documentation shall include at, a minimum, a copy of the individual or entity's qualifications and a copy of the written contract or agreement for such services, including a copy of the scope of services to be provided.
37. Within ninety (90) calendar days of receipt of this Order, Bowie Resources shall submit in writing to the Division a final report on the findings of the evaluation identified and outlined in paragraph 35 above. Along with the findings of the evaluation, the report must identify, for each criterion, specific short-term and long-term measures that will be taken by Bowie Resources to rectify deficiencies identified by the evaluation so that the Facility consistently produces effluent in compliance with the numeric limitations outlined in Part I.A.1. of the Permit. For each short-term and long-term measure identified, Bowie Resources shall also submit a time schedule for completion of each measure. The implementation time schedule submitted must identify completion of all measures by no later than December 31, 2016. The measures and time schedule submitted shall become a condition of this Order, and Bowie Resources shall implement the measures and time schedule as submitted unless notified by the Division, in writing, that alternate measures and/or time schedules are appropriate. If the Division imposes alternate measures and/or time schedules, they shall also become a condition of this Order.
38. Bowie Resources shall submit monthly progress reports to the Division outlining efforts taken to achieve compliance with this Order. The first report shall be submitted to the Division on or before April 30, 2016 and subsequent reports shall be due at the end of every month thereafter. At a minimum, each report shall outline activities completed in the previous month and activities planned for the next month to remain in compliance with this Order. The progress reports shall be required until the issuance of written notice from the Division that the reports are no longer necessary.
39. If Bowie Resources becomes aware of any situation or circumstances that cause Bowie Resources to become unable to comply with any condition or time schedules set forth by this Order, Bowie Resources shall provide written notice to the Division within five (5) calendar days of Bowie Resources becoming aware of such circumstances. Bowie Resources' notice shall describe what, if any, impacts will occur on Bowie Resources' ability to comply with the Colorado Water Quality Control Act and any impacts on the remaining conditions and/or time schedules specified by this Order, and what steps are being taken to mitigate the impacts.
40. All documents submitted under this Order shall use the same titles as stated in this Order, and shall reference both the number of this Order and the number of the paragraph pursuant to which the document is required. Within thirty (30) calendar days of receiving Division comments on submitted documents, Bowie Resources shall revise the submitted document(s) to properly address the Division's comments and resubmit the document(s) for Division review.

NOTICES AND SUBMITTALS

For all documents, plans, records, reports and replies required to be submitted by this Notice of Violation/Cease and Desist Order, Bowie Resources shall submit an original and an electronic copy to the Division at the following address:

Eric Mink
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-2312
Email: eric.mink@state.co.us

For any person submitting documents, plans, records and reports pursuant to this Notice of Violation / Cease and Desist Order, that person shall make the following certification with each submittal:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11 you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

FALSIFICATION AND TAMPERING

Be advised, in accord with §25-8-610, C.R.S., that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Colorado Water Quality Control Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

POTENTIAL CIVIL AND CRIMINAL PENALTIES

You are also advised that any person who violates any provision of the Colorado Water Quality Control Act (the "Act"), §§25-8-101 to 803, C.R.S., or of any permit issued under the Act, or any control regulation promulgated pursuant to the Act, or any final cease and desist order or clean-up order issued by the Division shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs. Further, any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Cease and Desist Order, the State has not waived its right to bring an action for penalties under §§25-8-608 and 609, C.R.S., and may bring such action in the future.

RELEASE OR DISCHARGE NOTIFICATION

Pursuant to §25-8-601, C.R.S., you are further advised that any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state, shall notify the Division of the discharge. If said person fails to so notify, said person is guilty of a misdemeanor, and may be fined or imprisoned or both.

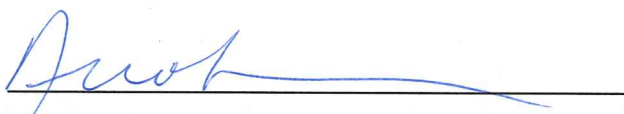
EFFECT OF ORDER

Nothing herein contained, particularly those portions requiring certain acts to be performed within a certain time, shall be construed as a permit or license, either to violate any provisions of the public health laws and regulations promulgated thereunder, or to make any discharge into state waters. Nothing herein contained shall be construed to preclude other individuals, cities, towns, counties, or duly constituted political subdivisions of the state from the exercise of their respective rights to suppress nuisances or to preclude any other lawful actions by such entities or the State.

For further clarification of your rights and obligations under this Notice of Violation / Cease and Desist Order you are advised to consult the Colorado Water Quality Control Act, §§25-8-101 to 803, C.R.S., and regulations promulgated thereunder, 5 CCR 1002.

Issued at Denver, Colorado, this 18th day of February 2016.

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT



Nicole Rowan, P.E.
Clean Water Program Manager
WATER QUALITY CONTROL DIVISION